United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN RE:

NATIONAL SECURITY AGENCY TELECOMMUNICATIONS RECORDS LITIGATION

MDL Docket No 06-1791 VRW

ORDER

This order pertains to:

Al-Haramain Islamic Foundation et al v Bush et al (C-07-0109 VRW),

___________________________________/

On June 3, 2009, the court held a hearing on the order dated May 22, 2009 that directed defendants to show cause why:

> (1) defendants should not be prohibited, under FRCP 37(b)(2)(ii), from opposing the liability component of plaintiffs' claim under 50 USC § 1810 —— that is, from denying that plaintiffs are "aggrieved persons" who were subjected to electronic surveillance; and
>
> (2) the court should not deem liability under 50 USC § 1810 established and proceed to determine the amount of damages to be awarded to plaintiffs.

The order to show cause is hereby ordered continued pending the briefing and hearing of plaintiffs' motion for summary judgment, which shall proceed as follows:

Plaintiffs shall notice their motion for summary judgment for September 1, 2009 at 10:00 am. Plaintiffs shall base their

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motion on non-classified evidence. If defendants rely upon the Sealed Document or other classified evidence in response, the court will enter a protective order and produce such classified evidence to those of plaintiffs' counsel who have obtained top secret/sensitive compartmented information clearances (Messrs Eisenberg and Goldberg) for their review. Otherwise, the court will consider the motion on non-classified evidence.

IT IS SO ORDERED.

VAUGHN R WALKER
United States District Chief Judge